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<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/804,474	ITO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	F. Daniel Lopez	3745	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to November 9, 2005.
2. ☒ The allowed claim(s) is/are 1-7.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### **REASONS FOR ALLOWANCE**

The following is an Examiner's Statement of Reasons for Allowance: the combination of elements as claimed is deemed to be directed to an unobvious improvement over the invention patented by Saito et al. Saito et al discloses a hydraulic continuously variable transmission (E.G. FIG 1) comprising a pivotally movable motor swash plate (20) supported by a motor pivot member (22), which is supported by a motor casing (23), as part of a swash plate plunger motor (M); a swash plate plunger pump (P) connected to the motor via a closed circuit; a hollow housing including an auxiliary portion extending from a base portion; wherein the auxiliary portion contains an adjustment mechanism (79) for moving the motor swash plate and including first and second parallel and substantially co-linear shafts drivingly connected by a geared idler shaft; with a servo motor type actuator (80) driving the second shaft and attached to a side surface on a first side (front) of the auxiliary portion, adjacent and overlaying the pump; wherein the motor swash plate rotates about a swash plate axis, and the actuator is located to a side of the swash plate axis (i.e. perpendicular to the swash plate axis).

The difference comprises that the auxiliary portion extends upwardly from the base portion, such that the actuator does not overlay the pump.

Hayashi et al (4,781,022) teaches, for a hydraulic continuously variable transmission (E.G. FIG 15, 23) comprising a pivotally movable motor swash plate (20) supported by a motor pivot member (22), which is supported by a motor casing (41), as part of a swash plate plunger motor (M); a swash plate plunger pump (P) connected to the motor via a closed circuit; a hollow housing including an auxiliary portion (283) extending from a base portion (4); wherein the auxiliary portion contains an adjustment mechanism (R) for moving the motor swash plate; with a servo motor (286) attached to a side surface on a first side (front) of the auxiliary portion; wherein the motor swash plate rotates about a swash plate axis; that the swash plate axis is vertical. The combination of Saito et al and Hayashi et al (4,781,022) would result in the auxiliary portions being to the side rather than above the base portion.

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, preferably **accompanies** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The official fax number is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.



F. Daniel Lopez  
Primary Examiner  
Art Unit 3745  
January 19, 2006